

REMARKS/ARGUMENTS:

Claims 1, 5, 11, and 18 have been amended. Claim 3 has been canceled without prejudice. Claims 1, 2 and 4-20 remain in the application. The specification has been amended.

The drawings were objected to under 37 C.F.R. 1.83(a). Applicant has amended claims 11 and 18 such that all limitations are featured in the drawings as originally filed. Therefore, it is respectfully submitted that the drawings as originally filed overcome the objection under 37 C.F.R. 1.83(a) and it is respectfully requested that this objection be removed.

The disclosure was objected to because of informalities. Applicant has amended the specification to overcome the informality. Therefore, it is respectfully submitted that the specification, as amended, overcomes the objection because of informalities and it is respectfully requested that this objection be removed.

Claims 11 and 18 were rejected under 35 U.S.C. § 112, first paragraph. Applicant has amended claims 11 and 18 to overcome the rejection under 35 U.S.C. § 112, first paragraph. Therefore, it is respectfully submitted that claims 11 and 18, as amended, overcome the rejection under 35 U.S.C. § 112, first paragraph and are allowable over this rejection.

Claims 1, 2, 5-10, 12-14 and 19 were rejected under 35 U.S.C. § 102(b) as being anticipated by Itria U.S. 3,923,122. Applicant respectfully traverses this rejection.

U.S. Patent 3,923,122 to Itria discloses a seismic pneumatic energy source with an attenuation of bubble pulse amplitude and reduction of period of bubble oscillation.

In contradistinction, claim 1, as amended claims an exhaust system having a muffler. The exhaust system also includes a flapper finger valve assembly arranged within the muffler. The flapper finger valve assembly having at least one flapper finger valve. The flapper finger valve having a generally C-shape.

Itria '122 does not disclose, teach, suggest or anticipate the present invention of claim 1, as amended. Specifically, Itria does not disclose an exhaust system including a muffler with a flapper finger valve assembly arranged within the muffler. Furthermore, Itria does not disclose, teach, suggest or anticipate a flapper finger valve assembly having at least one flapper finger valve wherein that flapper finger valve has a generally C-shape. Nowhere does Itria disclose, teach, suggest or even contemplate the use of a C-shaped flapper finger valve within a muffler. Hence, it is not proper to infer or speculate a claim limitation of the applicant's into the Itria reference unless there is a specific teaching or suggestion to do so in such reference. Therefore, as the Itria reference does not discuss, disclose, suggest or even contemplate any type of C-shaped flapper valve or any type of flapper valve for that matter located within a muffler such a limitation cannot be inferred or speculated into the specification of such reference.

Furthermore, it is not proper for the examiner to state that it would be an obvious matter of design choice for someone skilled in the art to employ flapper valve having a generally C-shaped section within a muffler. Such a statement has no support in the prior art and without a specific teaching or suggestion in the prior art of applicant's claimed limitation the examiner's statement that it would be obvious to a person skilled in the art is a quantum leap that is not allowed by law. Therefore, as there is no teaching or

suggestion in the Itria reference, or any other prior art for the use of a flapper finger valve having a generally C-shape arranged within a muffler the rejection must fail. Therefore, it is respectfully submitted that claim 1, as amended, and the claims dependent therefrom, overcome the rejection under 35 U.S.C. § 102(b) and are allowable over this rejection.

With respect to independent claim 12 Itria '122 does not disclose, teach, suggest or anticipate the present invention of claim 12. Specifically, Itria does not disclose a muffler for use in the exhaust system including a body with a flapper finger valve assembly arranged within the body. Nowhere does Itria disclose, teach or suggest the use of a flapper finger valve assembly arranged within a body of a muffler for use in an exhaust system. Itria only discloses a cylinder having openings covered with a flap valve on an outside surface of the cylinder 17. Nowhere is it taught, suggested or disclosed to use a flapper valve assembly arranged within a body of a muffler for use in an exhaust system. Hence, it is respectfully submitted that Itria '122 fails to disclose all of the limitations claimed by applicant in claim 12. Therefore, it is respectfully submitted that claim 12 and the claims dependent therefrom, overcome the rejection under 35 U.S.C. § 102(b) and are allowable over this rejection.

Claims 3, 11 and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Itria U.S. 3,923,122. Claim 3 has been canceled without prejudice therefore the rejection under 35 U.S.C. § 103(a) is moot. It is respectfully submitted that claims 11 and 18, as amended, are allowable for the same reasons given above for amended claim 12. Therefore, claims 11 and 18, as amended, overcome the rejection under 35 U.S.C. § 103(a) and are allowable over this rejection.

Claims 4, 15-17 and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Itria U.S. 3,923,122 in view of Okamoto U.S. 5,299,961.

U.S. patent 5,299,961 to Okamoto discloses a valve arrangement for an exhaust passage in a marine propulsion unit.

With respect to claims 4 and 15-17 it is respectfully submitted that those claims are allowable for the same reasons given above for independent claims 1 and 12 respectively. Therefore, it is respectfully submitted that claims 4 and 15-17 are allowable over the rejection under 35 U.S.C. § 103(a).

Independent claim 20 is allowable for the same reasons given above for independent claim 1 with reference to the arguments pertaining to the C-shaped flapper finger valves. Furthermore, it is allowable over the Itria and Okamoto references because neither reference discloses, teaches, suggests, or contemplates the use of a plurality of retainers generally having a C-shaped arranged around flapper finger valves having the same C-shape. Therefore, as neither reference discloses, teaches, or suggests such use of a C-shaped plurality of retainers such a limitation cannot be inferred or speculated into the references as disclosed without a specific suggestion or teaching to do so within such references. Furthermore, the Itria and Okamoto references are not even capable of being combined. A person skilled in the art of exhaust systems would not look to marine engines or firearm suppressors to find a possible solution. Also, a combination of the references is not possible because there is no teaching in either reference to combine a firearm attenuator with a valve passage in a marine engine. Any such combination could only yield a marine engine that attenuates and reduces seismic energy. Therefore, a

combination of Itria and Okamoto must fail. Hence, it is respectfully submitted that claim 20 overcomes the rejection under 35 U.S.C. § 103 (a) and is allowable over this rejection.

If applicant can be of any further assistance or provide any other information in the prosecution of this application, the examiner is requested to call the undersigned at 248-364-2100.

Respectfully submitted by:

A handwritten signature in dark ink, appearing to read "Michael T. Raggio", is written over a horizontal line.

Michael T. Raggio
Dinnin & Dunn, P.C.
2701 Cambridge Court, Suite 500
Auburn Hills, Michigan 48326